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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,821	11/30/2000	Howard Arkin	1621836-0002	4292

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WHITE & CASE LLP  
PATENT DEPARTMENT  
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NEW YORK, NY 10036

EXAMINER

BAYARD, DJENANE M

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/727,821

Applicant(s)

ARKIN ET AL.

Examiner

Djenane M Bayard

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 24-27 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,347,086 to Strachan.

- a. As per claim 24, Strachan teaches an event pool over a network to a plurality of network users, the method comprising the steps of establishing by a network-enabled entity one or more pool services with a provider of event pool services (See col. 1, lines 21-40); maintaining by the network-enabled entity one or more servers capable of providing a network based user interface to a network user (See col. 4, lines 1-45); providing by the network-enabled entity to a network user over the network-based user interface the opportunity to participate in one or more of the event pool services established by the network-enabled entity (See col. 3, lines 29-56); and directing the network user to the event pool service provider to allow the network user to participate in the one or more of the event pool services (See col. 7, lines 23-45).

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- b. As per claim 25, Strachan teaches wherein the event pool services provided to the network user identifies the network-enabled entity (See col. 7, lines 23-45).
- c. As per claim 26, Strachan teaches wherein the event pool services provided to the network user does not identify the event pool service provider (See col. 8, lines 43-65)
- d. As per claim 27, Strachan teaches wherein the establishing step comprises determining a plurality of inquiries to be made of a network user desiring to participate in the one or more of the event pool services (See col. 3, lines 59-63).

***Claim Rejections - 35 USC § 103***

- 3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 4. Claim 1-11, 14, 16, 18, 20, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,347,086 to Strachan in view of U.S. Publication No. 0032162 to Alsberg et al.

- a. As per claim 1, Strachan teaches a method for establishing an event pool, the method comprising the steps of receiving a communication over a network from a network user desiring

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to create an event pool (See col. 3, lines 22-25); receiving a communication over a network from the network user a selection of at least one event pool (See col. 3, lines 29-40); However, Strachan fails to teach establishing an identifier for the selected event pool; and recording in a storage medium a data structure corresponding to the selected event pool, the data record identified by the identifier.

Alsberg et al teaches teach establishing an identifier for the selected event pool (See page 10, paragraph [0121]; and recording in a storage medium a data structure corresponding to the selected event pool, the data record identified by the identifier (See page 7, paragraph [0095-0097].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate an identifier for the selected event pool; and recording in a storage medium a data structure corresponding to the selected event pool, the data record identified by the identifier as taught by Alsberg et al in the claimed invention of Strachan in order to track change and track the status of offers (See page 7, paragraph [0097]).

b. As per claim 2, Strachan teaches the step of offering to other network users the opportunity to participate in the established event pool (See col. 1, lines 53-56).

c. As per claim 3, Strachan teaches wherein the establishing an identifier step includes soliciting from the network user a name to be used to identify the selected pool (See col. 3, lines 23-35).

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d. As per claim 4, Strachan teaches wherein other network users are able to participate in the event pool by transmitting the name selected by the network user over the network (See col. 3, lines 58-64).

e. As per claim 5, Strachan teaches the step of offering to the network user over the network a plurality of different parameters or options for the selected event pool from which to select (See col. 4, lines 2-8).

f. As per claim 6, Strachan teaches the step of receiving a communication over the network from the network user corresponding to the selection of at least one of the different parameters or options for the selected event pool (See col. 3, lines 10-15 and col. 4, lines 2-8)

g. As per claim 7, Strachan in view of Alsberg et al teaches the claimed invention as described above. However, Strachan fails to teach recording in the storage medium a record of the selection of at least one of the different parameters or options for the selected event pool.

Alsberg et al teaches recording in the storage medium a record of the selection of at least one of the different parameters or options for the selected event pool (See page 7, paragraph [0095-0097].

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate recording in the storage medium a record of the selection of at least one of the different parameters or options for the selected event pool as taught by Alsberg et al in the

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claimed invention of Strachan in order to track change and track the status of offers (See page 7, paragraph [0097]).

h. As per claim 8, Strachan teaches establishing, ordering, and retrieving designated parameters from the record of the selection of parameters or options for the selected pool event (See col. 8).

i. As per claim 9, Strachan teaches a method of providing an event pool having a plurality of possible picks for participation over a network by a plurality of network users (See col. 3, lines 10-55), offering over a network to a plurality of network users the opportunity to participate in the event pool (See col. 3, lines 31-40); receiving from a network user a request to participated in the event pool (See col. 3, lines 60-64); soliciting from the network user inputs corresponding to a selection of one or more picks in the event pool; and upon completion of at least a portion of the events corresponding to the event pool; determining whether the one or more picks made by the network user comprise a successful selection ( See col. 4, lines 35-55). However, Strachan fails to teach the method comprising the steps of establishing in a storage medium a data structure corresponding to an event pool; recording in a storage medium the one or more picks made by the network user;

Alsberg et al teaches the method comprising the steps of establishing in a storage medium a data structure corresponding to an event pool; recording in a storage medium the one or more picks made by the network user (See page 7, paragraph [0095-0097])

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the method comprising the steps of establishing in a storage medium a data structure corresponding to an event pool; recording in a storage medium the one or more picks made by the network user in the claimed invention of Strachan as taught by Alsberg et al in order to order to track change and track the status of offers (See page 7, paragraph [0097]).

j. As per claim 18, Strachan teaches a system for providing an event pool having a plurality of possible picks for participation over a network by a plurality of network users, the method comprising; a network over which an opportunity to participate in the event pool is provided to a plurality of network users (See col. 1, lines 53-56); a server for receiving from a network user a request to participated in the event pool (See col. 3, lines 59-63); a server for soliciting from the network user inputs corresponding to a selection of one or more picks in the event pool (See col. 35-47); and a processor for, upon completion of at least a portion of the events corresponding to the event pool, determining whether the one or more picks made by the network user comprise a successful selection (See col. 8, lines 43-65). However, Strachan fails to teach a storage medium for storing a data structure corresponding to an event pool and the storage medium recording the one or more picks made by the network user.

Alsberg et al teaches a storage medium for storing a data structure corresponding to an event pool and the storage medium recording the one or more picks made by the network user (See page 7, paragraph [0095-0097])

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a storage medium for storing a data structure corresponding to an event



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pool and the storage medium recording the one or more picks made by the network user as taught by Alsberg in the claimed invention of Strachan in order to order to track change and track the status of offers (See page 7, paragraph [0097]).

k. As per claim 10, Strachan teaches retrieving a weighted ordering of inputs corresponding to a selection of one or more picks in the pool event from the record in the storage medium (See col. 8, lines 43-67)).

l. As per claim 11, Strachan teaches the claimed wherein the opportunity to participate in the event pool is offered by a server maintained by the programming point (See col. 7, lines 27-34)

m. As per claims 14 and 20, Strachan teaches transmitting a communication to a network user an indication whether the one or more picks made by the network user comprise a successful selection (See col. 8, lines 44-67).

n. As per claims 16 and 22, Strachan teaches wherein the communication comprises a wireless message (See col. 5, lines 59-65)

5. Claims 12, 13, 15, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over 6,347,086 to Strachan in view of U.S. Publication No. 0032162 to Alsberg et al as applied to claims 14 and 20 above, and further in view of U.S Publication No. 0155885 to Shvili.

a. As per claim 12, Strachan in view of Alsberg teaches the claimed invention as described above. However, Strachan in view of Alsberg fails to teach wherein the opportunity to participate in the event pool is offered by a server maintained by a third-party in a contractual arrangement with the programming point.

Shvili teaches wherein the opportunity to participate in the event pool is offered by a server maintained by a third-party in a contractual arrangement with the programming point (See page 2, paragraph[0013-0014])

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the opportunity to participate in the event pool is offered by a server maintained by a third-party in a contractual arrangement with the programming point as taught by Shvili in the claimed invention of Strachan in view of Alsberg in order to facilitates interaction among people with similar interests (See page 2, paragraph [0013-0014]).

b. As per claim 13, Strachan in view of Alsberg teaches the claimed invention as described above. However, Strachan in view of Alsberg fails to teach wherein upon receiving from a network user a request to participate in the event pool by the third-party, the network user is linked to a network interface maintained by the programming point.

Shvili teaches wherein upon receiving from a network user a request to participate in the event pool by the third-party, the network user is linked to a network interface maintained by the programming point (See page 2 paragraph [0012]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein upon receiving from a network user a request to participate in the event pool by the third-party, the network user is linked to a network interface maintained by the programming point as taught by Shvili in the claimed invention of Strachan in view of Alsberg in order to facilitates interaction among people with similar interests (See page 2, paragraph [0013-0014]).

c. As per claim 15 and 21, Strachan in view of Alsberg teaches the claimed invention as described above. However, Strachan in view of Alsberg fails to teach wherein the communication comprises an email.

Shvili teaches wherein the communication comprises an email (See page 3, paragraph[0020]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the communication comprises an email as taught by Shvili in the claimed invention of Strachan in view of Alsberg in order to interact with the other users (See page 3, paragraph[0020])

d. As per claim 19, Strachan in view of Alsberg teaches the claimed invention as described above. However, Strachan in view of Alsberg fails to teach a link to a third party the link allowing the third party to offer the opportunity to participate in the event pool.

Shvli teaches a link to a third party the link allowing the third party to offer the opportunity to participate in the event pool (See page 2, paragraph [0012]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a link to a third party the link allowing the third party to offer the opportunity to participate in the event pool as taught by Shvili in the claimed invention of Strachan in view of Alsberg in order to facilitates interaction among people with similar interests (See page 2 [ paragraph [0013-0014]).

6. Claims 17 and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over 6,347,086 to Strachan in view of U.S. Publication No. 0032162 to Alsberg et al as applied to claims 14 and 20 above, and further in view of U.S Publication No. 2002/0072978 to Odom et al.

a. As per claim 17 and 23, Strachan in view of Alsberg teaches the claimed invention as described above. However, Strachan in view of Alsberg fails to teach wherein the communication comprises a fax.

Odom et al teaches wherein the communication comprises a fax (See page 5, paragraph [0065]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the communication comprises a fax as taught by Odom et al in the claimed invention of Strachan in view of Alsberg in order to handle incoming connections from clients (See page 5, paragraph [0065]).

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S Patent Application Publication No. 2003/0087701 to Paravia et al teaches a system and method for providing and automated gaming service to one or more players in a computer based environments.

U.S. Patent Application Publication No. 2004/0009817 to La Mura et al teaches a system and method for enhanced online transactions using shopping games.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M Bayard whose telephone number is (703) 305-6606. The examiner can normally be reached on 7:00 AM-4:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Djenane Bayard

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RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER